THE HON'BLE SRI JUSTICE N.V. RAMANA

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Writ Petition No.13862 of 2004

Dated: 22.12.2005

Between:

1 Jerripothula Balakrishna Rao, S/o Yerrayya,
R/o Chilakalapalli village, Balijipeta Mandal, Vizianagaram

District and another.

..... PETITIONERS

AND

1 The Superintendent of Police, vizianagaram and 2 others.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition No.13862 of 2004

Order:

The present writ petition is filed for the following relief.

> "To issue a Writ of Mandamus, or any other appropriate writ, order or direction, declaring the action of the first respondent authority in not returning the fixed deposits bearing deposit Nos.667 worth Rs.15,200/- dated 01.02.1997, deposit No.243 worth Rs.50,000/- dated 23.09.1996 and deposit No.192/98 worth Rs.85,497/- dated 09.07.1998, deposited by late Mrs. Verhaghe Stievenard, wherein, the petitioners are made nominees, as arbitrary, illegal, null and void and is against the principles of natural justice and norms of the public policy and further to issue consequential directions to the first respondent to release the fixed deposits to the petitioners forthwith."

The brief facts that are necessary for disposal of the writ petition are that one Mrs. Verhaeghe Stievenard, a citizen of Belgium and who used to reside in the house of

the petitioners, deposited an amount of Rs.15,200/- under F.D. No.667, dated 01.02.1997, and an amount of Rs.50,000/- under SPGD No.243, dated 23.03.1996 in respondent No.2-Bank, and also an amount of Rs.85,497/- under KTD No.192/98, dated 09.07.1998 in respondent No.3-Bank, and the petitioners names were shown as nominees in the said deposits by her. It is stated that the said Mrs. Verhaeghe Stievenard expired on 05.12.1998 at the age of 86 years in Chilakalapalli village, Bajilipeta Mandal, Vizianagaram District, and subsequent to her death, the Sub-Inspector of Police, Balajipet Police Station seized the fixed deposits from the house of the petitioners, and in spite of issuing several notices to respondent No.1 to release the said fixed deposits, no action has been taken so far. Hence, the present writ petition.

A counter affidavit is filed on behalf of respondent No.1 stating that pursuant to the death of Mrs. Verhaeghe Stievenard, based on the letter Ref.C31.5/111/52/99, dated 29.04.2004 addressed by the Consulate General of Belgium, Mumbai, wherein it is stated that one Mrs. Lucie De Vos is the legal heir of the deceased Mrs. Verhaeghe Stievenard, 22 fixed deposit bonds belonging to the deceased worth about Rs.19,46,939/- with the respondent Nos.2 and 3-Banks were taken custody by the police. It is stated that out of the said 22 fixed deposit bonds, the petitioners are the nominees for three fixed deposit bonds worth Rs.1,50,697/-. It is further stated that the matter is being referred to the competent Court under 451 of Cr.P.C and petitioners are at liberty to put-forth their claims before the competent Court.

Heard the learned counsel for the petitioners, learned Government Pleader for Home for respondent No.1, and learned Counsel for respondent Nos.2 and 3-Banks and perused the file produced by the learned Government Pleader for Home.

It is clearly admitted in the counter affidavit filed on behalf of respondent No.1 that out of the said 22 fixed deposit bonds belonging to the deceased Mrs. Verhaeghe Stievenard, the petitioners are the nominees for three fixed deposit bonds worth Rs.1,50,697/- as mentioned by the petitioners in the writ petition. But, as respondent No.1 received a letter Ref.C31.5/111/52/99, dated 29.04.2004 from the Consulate General of Belgium, Mumbai, wherein it is stated that one Mrs. Lucie De Vos is the legal heir of the deceased Mrs. Verhaeghe Stievenard, the fixed deposit bonds were seized and the petitioners

were directed to approach the competent Court on being referred the matter to the same under Section 451 Cr.P.C. As the counter affidavit does not disclose the details of criminal proceedings in the matter, this Court directed the Sub-Inspector of Police, Balajipet Mandal, Vizianagaram, to appear before this Court and furnish the required details.

Accordingly, the Sub-Inspector of Police, Balajipet Mandal, Vizianagaram appeared in person before this Court, and ultimately, learned Government Pleader for Home, submitted that the police have not registered any crime in the matter. Therefore, this Court directed respondent Nos.2 and 3-Banks to produce the original documents.

After taking sufficient time, learned Counsel for respondent No.2-Bank produced the original certificates of fixed deposits of Rs.15,200/- under F.D.No.667, dated 01.02.1997 and Rs.50,000/- under SPGD No.243, dated 23.03.1996 belonging to
Mrs. Verhaeghe Stievenard as well as the nomination forms. In the said nomination forms the names of petitioners were shown as nominees by Mrs. Verhaeghe Stievenard. Learned counsel for respondent No.2-Bank submitted that as the names of petitioners were shown as nominees in the fixed deposits, respondent No.2-Bank has no objection to release the said F.D bonds to the petitioners, and that in view of the pendency of the present writ proceedings the F.D. bonds were not released to the petitioners.

Learned counsel appearing on behalf of Sri Nooti Rammohan Rao, learned Standing Counsel for respondent No.3-Andhra Bank, submitted that the second petitioner is the nominee to the fixed deposit No.KTD No.192/98, dated 09.07.1998 worth about Rs.85,497/- and they have no objection to release the said amount to the second petitioner.

The record discloses that the petitioners were shown as nominees of fixed deposits bearing Nos. F.D. No.667, dated 01.02.1997, SPGD No.243, dated 23.03.1996, and KTD No.192/98, dated 09.07.1998 for an amount of Rs.15,200/-, Rs.50,000/- and Rs.85,497/- respectively, and except the letter of the Consulate General of Belgium, dated 29.4.2004 there was no further correspondence from the Consulate General of Belgium nor the legal heir of Mrs. Verhaeghe Stievenard, has made any claim, much less a claim on the deposits wherein

the petitioners were mentioned as nominees by Mrs. Verhaeghe Stievenard.

That apart, respondent Nos.2 and 3 banks have expressed “no Objection” for release of the amounts to petitioners. Hence, this Court is of the view that no purpose would be served by keeping the above said deposits with the police and the same can be returned to the concerned banks for release of the amounts to the nominees referred to therein/petitioners, subject to following the procedure and rules in vogue.

Accordingly, the first respondent is directed to release the fixed deposits Nos. F.D. No.667, dated 01.02.1997, SPGD No.243, dated 23.03.1996, and KTD No.192/98, dated 09.07.1998. The petitioners are at liberty to make their claims before the respondent Nos.2 and 3-Banks. On receipt of the claims from the petitioners, respondent Nos.2 and 3-Banks shall consider the same and take necessary further action in the matter in accordance with the procedure and rules in vogue.

With the above direction, the writ petition is disposed of. No costs.

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N.V.RAMANA, J.

Date: 22ND December, 2005

TVK/NSR